

ENTERED

August 19, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**AMANDA SMITH,
(Inmate # 02914776)

Plaintiff,

vs.

HARRIS COUNTY JAIL,

Defendant.

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CIVIL ACTION NO. H-24-2102

MEMORANDUM OPINION AND ORDER

Amanda Smith, an inmate in the Harris County Jail, sued the Harris County Jail Medical Department under 42 U.S.C. § 1983, alleging that “the Department” was violating her civil rights by denying her care for a pre-existing medical condition. (Docket Entry No. 1). Smith is representing herself, and the court granted her leave to proceed without prepaying the filing fee. (Docket Entry No. 5). On June 20, 2024, the court dismissed Smith’s claims against the Jail because neither the Jail nor its medical department have the capacity to be sued. (Docket Entry No. 7). Because Smith’s allegations of medical neglect were serious, the court granted her leave to file an amended complaint naming proper defendants. (*Id.*). Smith’s amended complaint was due by August 2, 2024, and the court warned her that this action would be dismissed if she failed to timely file an amended complaint. (*Id.*).

Smith has not filed an amended complaint, and her time to do so under the court’s order has expired. Smith’s failure to respond forces the court to conclude that she lacks due diligence. Dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998) (a district court may dismiss an action on its own for failure to prosecute or to comply with any court order).

Smith may seek relief from this order under Federal Rule of Civil Procedure 60(b) if she can show good cause for failing to comply with the court's order. Any motion under Rule 60(b) must be accompanied by Smith's proposed amended complaint.

Smith's complaint, (Docket Entry No. 1), is dismissed without prejudice for want of prosecution and for failure to comply with the court's order. Any pending motions are denied as moot.

SIGNED on August 19, 2024, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal
United States District Judge